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# COREA.

(KOREA.)

1882.<sup>a</sup>

## TREATY OF PEACE, AMITY, COMMERCE AND NAVIGATION.

*Concluded May 22, 1882; ratification advised by the Senate January 9, 1883; ratified by the President February 13, 1883; ratifications exchanged May 19, 1883; proclaimed June 4, 1883.*

### ARTICLES.

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| I. Amity.                                    | VIII. Exportation of breadstuffs and<br>ginseng prohibited. |
| II. Diplomatic and consular privileges.      | IX. Arms and ammunition.                                    |
| III. Asylum; shipwrecks.                     | X. Employing natives, etc.                                  |
| IV. Protection in Korea; extrterritoriality. | XI. Privileges to students.                                 |
| V. Shipping dues; imports.                   | XII. Duration.  |
| VI. Residence and travel.                    | XIII. Language of correspondence.                           |
| VII. Opium traffic.                          | XIV. Most favored nation privileges;<br>ratification.       |

The United States of America and the Kingdom of Chosen, being sincerely desirous of establishing permanent relations of amity and friendship between their *respective peoples*, have to this end appointed—that is to say, the President of the United States—*R. W. Shufeldt, Commodore, U. S. Navy*, as his Commissioner Plenipotentiary, and His Majesty, the King of Chosen, *Shin-Chen, President of the Royal Cabinet, Chin-Hong-Chi, Member of the Royal Cabinet*, as his Commissioners Plenipotentiary, who, having reciprocally examined their respective full Powers, which have been found to be in due form, have agreed upon the several following articles:

### ARTICLE I.

There shall be perpetual peace and friendship between the President of the United States and the King of Chosen and the *citizens and subjects* of their respective Governments.

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<sup>a</sup> Article II of the agreement between Japan and Korea, November 17, 1905, provides: "The Government of Japan undertake to see to the execution of the treaties actually existing between Korea and other powers and the Government of Korea engaged not to conclude hereafter any act or engagement having an international character except through the medium of the Government of Japan." (For correspondence between the Governments of the United States and Japan concerning the agreement between Japan and Korea, see Foreign Relations, 1905, page 612.)

If other Powers deal unjustly or oppressively with either Government, the other will exert their good offices, on being informed of the case, to bring about an amicable arrangement, thus showing their friendly feelings.

## ARTICLE II.

After the conclusion of this Treaty of amity and commerce, the High Contracting Powers may each appoint Diplomatic Representatives to reside at the Court of the other, and may each appoint *Consular Representatives* at the ports of the other, which are open to foreign commerce, at their own convenience.

These officials shall have relations with the corresponding local authorities of equal rank upon a basis of mutual equality.

The Diplomatic and Consular Representatives of the two Governments shall receive mutually all the privileges, rights and immunities without discrimination, which are accorded to the same class of Representatives from the most favored nation.

Consuls shall exercise their functions only on receipt of an *exequatur* from the Government, to which they are accredited. Consular authorities shall be *bona fide* officials. No merchants shall be permitted to exercise the duties of the office, nor shall Consular officers be allowed to engage in trade. At ports, to which no Consular Representatives have been appointed, the Consuls of other Powers may be invited to act, provided, that no merchant shall be allowed to assume Consular functions, or the provisions of this Treaty may, in such case, be enforced by the local authorities.

If Consular Representatives of the United States in Chosen conduct their business in an improper manner, their *exequatur* may be revoked, subject to the approval previously obtained, of the Diplomatic Representative of the United States.

## ARTICLE III.

Whenever United States vessels, either because of stress of weather, or by want of fuel or provisions cannot reach the nearest open port in Chosen, they may enter any port or harbor, either to take refuge therein, or to get supplies of wood, coal and other necessities, or to make repairs, the expenses incurred thereby being defrayed by the ship's master. In such event the officers and people of the locality shall display their sympathy by rendering full assistance, and their liberality by furnishing the necessities required.

If a United States vessel carries on a clandestine trade at a port not open to foreign commerce, such vessel with her cargo shall be seized and confiscated.

If a United States vessel be wrecked on the coast of Chosen, the local authorities, on being informed of the occurrence, shall immediately render assistance to the crew, provide for their present necessities, and take the measures necessary for the salvage of the ship and the preservation of her cargo. They shall also bring the matter to the knowledge of the nearest Consular Representative of the United States, in order that steps may be taken to send the crew home and to save the ship and cargo. The necessary expenses shall be defrayed either by the ship's master or by the United States.

## ARTICLE IV.

All citizens of the United States of America in Chosen, peaceably attending to their own affairs, shall receive and enjoy for themselves and everything appertaining to them the protection of the local authorities of the Government of Chosen, who shall defend them from all insult and injury of any sort. If their dwellings or property be threatened or attacked by mobs, incendiaries, or other violent or lawless persons, the local officers, on requisition of the Consul, shall immediately dispatch a military force to disperse the rioters, apprehend the guilty individuals, and punish them with the utmost rigor of the law.

Subjects of Chosen, guilty of any criminal act towards citizens of the United States, shall be punished by the authorities of Chosen according to the laws of Chosen; and citizens of the United States, either on shore or in any merchant-vessel, who may insult, trouble or wound the persons or injure the property of the people of Chosen, shall be arrested and punished only by the Consul or other public functionary of the United States thereto authorized, according to the laws of the United States.

When controversies arise in the Kingdom of Chosen between citizens of the United States and subjects of His Majesty, which need to be examined and decided by the public officers of the two nations, it is agreed between the two Governments of the United States and Chosen, that such cases shall be tried by the proper official of the nationality of the defendant, according to the laws of that nation. The properly authorized official of the plaintiff's nationality shall be freely permitted to attend the trial, and shall be treated with the courtesy due to his position. He shall be granted all proper facilities for watching the proceedings in the interest of justice. If he so desires, he shall have the right to present, to examine and to cross-examine witnesses. If he is dissatisfied with the proceedings, he shall be permitted to protest against them in detail.

It is however mutually agreed and understood between the High Contracting Powers, that whenever the King of Chosen shall have so far modified and reformed the statutes and judicial procedure of his Kingdom that, in the judgment of the United States, they conform to the laws and course of justice in the United States, the right of extritorial jurisdiction over United States citizens in Chosen shall be abandoned, and thereafter United States citizens, when within the limits of the Kingdom of Chosen, shall be subject to the jurisdiction of the native authorities.

## ARTICLE V.

Merchants and merchant-vessels of Chosen visiting the United States for purposes of traffic, shall pay duties and tonnage-dues and all fees according to the Customs-Regulations of the United States, but no higher or other rates of duties and tonnage-dues shall be exacted of them, than are levied upon citizens of the United States or upon citizens or subjects of the most favored nation.

Merchants and merchant-vessels of the United States visiting Chosen for purposes of traffic, shall pay duties upon all merchandise

imported and exported. The authority to levy duties is of right vested in the Government of Chosen. The tariff of duties upon exports and imports, together with the Customs-Regulations for the prevention of smuggling and other irregularities, will be fixed by the authorities of Chosen and communicated to the proper officials of the United States, to be by the latter notified to their citizens and duly observed.

It is however agreed in the first instance as a general measure, that the tariff upon such imports as are articles of daily use shall not exceed an *ad valorem* duty of ten *per centum*; that the tariff upon such imports as are luxuries, as for instance foreign wines, foreign tobacco, clocks and watches, shall not exceed an *ad valorem*-duty of thirty *per centum*, and that native produce exported shall pay a duty not to exceed five *per centum ad valorem*. And it is further agreed that the duty upon foreign imports shall be paid once for all at the port of entry, and that no other dues, duties, fees, taxes or charges of any sort shall be levied upon such imports either in the interior of Chosen or at the ports.

United States merchant-vessels entering the ports of Chosen shall pay tonnage-dues at the rate of five mace per ton, payable once in three months on each vessel, according to the Chinese calendar.

#### ARTICLE VI.

Subjects of Chosen who may visit the United States shall be permitted to reside and to rent premises, purchase *land*, or to construct residences or warehouses in all parts of the country. They shall be freely permitted to pursue their various callings and avocations, and to traffic in all merchandise, raw and manufactured, that is not declared contraband by law. Citizens of the United States who may resort to the ports of Chosen which are open to foreign commerce, shall be permitted to reside at such open ports within the limits of the concessions and to lease buildings or land, or to construct residences or warehouses therein. They shall be freely permitted to pursue their various callings and avocations within the limits of the port, and to traffic in all merchandise, raw and manufactured, that is not declared contraband by law.

No coercion or intimidation in the acquisition of land or buildings shall be permitted, and the land-rent as fixed by the authorities of Chosen shall be paid. And it is expressly agreed that land so acquired in the open ports of Chosen still remains an integral part of the Kingdom, and that all rights of jurisdiction over persons and *property* within such areas remain vested in the authorities of Chosen, except in so far as such rights have been expressly relinquished by this Treaty.

American citizens are not permitted either to transport foreign imports to the interior for sale, or to proceed thither to purchase native produce. Nor are they permitted to transport native produce from one open port to another open port.

Violations of this rule will subject such merchandise to confiscation, and the merchant offending will be handed over to the Consular Authorities to be dealt with.

## ARTICLE VII.

The Governments of the United States and of Chosen mutually agree and undertake that subjects of Chosen shall not be permitted to import opium into any of the ports of the United States, and citizens of the United States shall not be permitted to import opium into any of the open ports of Chosen, to transport it from one open port to another open port, or to traffic in it in Chosen. This absolute prohibition which extends to vessels owned by the citizens or subjects of either Power, to foreign vessels employed by them, and to vessels owned by the citizens or subjects of either Power and employed by other persons for the transportation of opium, shall be enforced by appropriate legislation on the part of the United States and of Chosen, and offenders against it shall be severely punished.

## ARTICLE VIII.

Whenever the Government of Chosen shall have reason to apprehend a scarcity of food within the limits of the Kingdom, His Majesty may by Decree temporarily prohibit the export of all breadstuffs, and such Decree shall be binding on all citizens of the United States in Chosen upon due notice having been given them by the Authorities of Chosen through the proper officers of the United States; but it is to be understood that the exportation of rice and breadstuffs of every description is prohibited from the open port of Yin-Chuen.

Chosen having of old prohibited the exportation of red gingseng, if citizens of the United States clandestinely purchase it for export, it shall be confiscated and the offenders punished.

## ARTICLE IX.

The purchase of cannon, small arms, swords, gunpowder, shot and all munitions of war is permitted only to officials of the Government of Chosen, and they may be imported by citizens of the United States only under a written permit from the authorities of Chosen. If these articles are clandestinely imported, they shall be confiscated and the offending party shall be punished.

## ARTICLE X.

The officers and people of either nation residing in the other, shall have the right to employ natives for all kinds of lawful work.

Should, however, subjects of Chosen, guilty of violation of the laws of the Kingdom, or against whom any action has been brought, conceal themselves in the residences or warehouses of United States citizens, or on board United States merchant-vessels, the Consular Authorities of the United States, on being notified of the fact by the local authorities, will either permit the latter to despatch constables to make the arrests, or the persons will be arrested by the Consular Authorities and handed over to the local constables.

Officials or citizens of the United States shall not harbor such persons.

## ARTICLE XI.

Students of either nationality, who may proceed to the country of the other, in order to study the language, literature, laws or arts, shall be given all possible protection and assistance in evidence of cordial good will.

## ARTICLE XII.

This being the first Treaty negotiated by Chosen, and hence being general and incomplete in its provisions, shall in the first instance be put into operation in all things stipulated herein. As to stipulations not contained herein, after an interval of five years, when the officers and the people of the two Powers shall have become more familiar with each others language, a further negotiation of commercial provisions and regulations in detail, in conformity with international law and without unequal discriminations on either part shall be had.

## ARTICLE XIII.

This Treaty, and future official correspondence between the two contracting Governments shall be made, on the part of Chosen, in the Chinese language.

The United States shall either use the Chinese language, or, if English be used, it shall be accompanied with a Chinese version, in order to avoid misunderstanding.

## ARTICLE XIV.

The High Contracting Powers hereby agree that, should at any time the King of Chosen grant to any nation or to the merchants or citizens of any nation, any right, privilege or favor, connected either with navigation, commerce, political or other intercourse, which is not conferred by this Treaty, such right, privilege and favor shall freely inure to the benefit of the United States, its public officers, merchants and citizens, provided always, that whenever such right, privilege or favor is accompanied by any condition, or equivalent concession granted by the other nation interested, the United States, its officers and people shall only be entitled to the benefit of such right, privilege or favor upon complying with the conditions or concessions connected therewith.

In faith whereof the respective Commissioners Plenipotentiary have signed and sealed the foregoing at Yin-Chuen in English and Chinese, being three originals of each text of even tenor and date, the ratifications of which shall be exchanged at Yin-Chuen within one year from the date of its execution, and immediately thereafter this Treaty shall be in all its provisions publicly proclaimed and made known by both Governments in their respective countries, in order that it may be obeyed by their citizens and subjects respectively.

Chosen, May the 22<sup>nd</sup>, A. D. 1882.

[SEAL.]

R. W. SHUFELDT,

*Commodore, U. S. N., Envoy of the U. S. to Chosen.*

[SEAL.]

SHIN CHEN,  
CHIN HONG CHI, } [*In Chinese.*]

[Senate resolution advising ratification.]

IN EXECUTIVE SESSION,

SENATE OF THE UNITED STATES,

January 9, 1883.

Resolved, (two thirds of the Senators present concurring,) That the Senate advise and consent to the ratification of the treaty of commerce and navigation between the United States and the Kingdom of Corea or Chosen, concluded on the 22<sup>nd</sup> of May 1882.

Resolved, That it is the understanding of the Senate in agreeing to the foregoing resolution, that the clause, "Nor are they permitted to transport native produce from one open port to another open port," in Article VI of said treaty, it is not intended to prohibit and does not prohibit American ships from going from one open port to another open port in Corea or Chosen to receive Corean cargo for exportation, or to discharge foreign cargo, and

Resolved, That the President be requested to communicate the foregoing interpretation of said clause to the Corean or Chosen government on the exchange of ratifications of said treaty, as the sense in which the United States understand the same.

Resolved further, That the Senate in advising and consenting to the treaty mentioned in the foregoing resolutions does not admit or acquiesce in any right or constitutional power in the President to authorize or empower any person to negotiate treaties or carry on diplomatic negotiations with any foreign power, unless such person shall have been appointed for such purpose or clothed with such power by and with the advice and consent of the Senate, except in the case of a Secretary of State or diplomatic officer appointed by the President to fill a vacancy occurring during the recess of the Senate, and it makes the declaration in order that the means employed in the negotiation of said treaty be not drawn into precedent.

Resolved, That the Secretary communicate all the foregoing resolutions to the President.

Attest:

F. E. SHOBER,  
*Acting Secretary.*